

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

MANUEL TADEO ESQUIVEL

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CRIMINAL NO. 4:20-CR-386-ALM-CAN

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 21, 2021 to determine whether Defendant violated his supervised release. Defendant was represented by Federal Public Defender Michelle Allen-McCoy. The Government was represented by Assistant United States Attorney Lesley Brooks.

On September 9, 2010, United States District Judge Fred Biery of the Western District of Texas sentenced Defendant to a term of one hundred twenty (120) months' imprisonment, followed by five (5) years of supervised release. *See* No. 5:09-cr-643, Dkt. 28 (W.D. Tex. Sept. 9, 2010). On August 10, 2018, Defendant completed his term of imprisonment and began his term of supervised release in the Western District of Texas. On December 17, 2019, Defendant was approved for relocation to the Eastern District of Texas. On December 28, 2020, this Court obtained jurisdiction over Defendant's supervised release. *See* No. 4:20-cr-386, Dkt. 1 (E.D. Tex. Dec. 28, 2020).

On January 20, 2021, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the "Petition"). *See id.* at Dkt. 2. The Petition asserts Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful

use of a controlled substance; (2) Defendant shall refrain from excessively using alcohol and shall not purchase, possess, use, distribute, or administer any controlled substances or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall not commit another federal, state, or local crime; and (4) Defendant shall answer truthfully all inquiries from the Probation Officer and follow the Probation Officer's instructions.

The Petition asserts that Defendant violated these conditions because (1) on November 6, 2020, Defendant's urine sample tested positive for marijuana and opiates; (2) on November 6, 2020, Defendant admitted verbally and in writing to using opiates on October 31, 2020 and marijuana on November 6, 2020; (3) on November 6, 2020, Defendant violated Texas Health and Safety Code § 481.133(a) when he was found to possess a device designed to deceptively provide a urine specimen; (4) Defendant's attempted use of a deceptive device constituted a breach of instructions from the Probation Officer.

On June 21, 2021, the Court conducted a final revocation hearing on the Petition. Defendant entered a plea of true to allegations 1, 2, 3, and 4. *See* Dkt. 13. Defendant also consented to revocation of his supervised release and waived his right to object to the proposed findings and recommendations of the United States Magistrate Judge. *See* Dkt. 14. The Court finds that Defendant has violated the terms of his supervised release, and thus, his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the June 21, 2021 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, followed by eighteen (18) months of supervised with the same conditions of release previously imposed.

So ORDERED and SIGNED this 23rd day of June, 2021.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE